IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5201 OF 2005

Dadaso Dnyandev Shelke ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.A.P.Mundargi with Mr.P.P.Runwal for the Applicant
Ms S.D.Shinde, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 26,2005

P.C.:

1. Heard learned Counsel for the Applicant and the learned A.P.P. for State. The offence alleged against the Applicant and co-accused is under Sections 307, 143, 147, 148, 452, 365, 286, 498-A, 506(2) of the Indian Penal Code. It is not in dispute that the real brother of the Applicant who is the husband of the complainant has been enlarged on bail.

2. The learned Counsel for the Applicant submitted that the Applicant is in military service. He pointed out that the allegation against him is that he fired one shot by his gun. However, no one is injured.

3. The learned A.P.P. pointed out that the applicant who is in military service has used his gun for terrorising the persons who were present at the scene of offence. The learned A.P.P. submitted that a person in military service has used a weapon for terrorising the complainant as well as other persons who were present there and therefore the Applicant is

not entitled to be enlarged on bail.

4. I have considered the submissions. The case of the prosecution is that the Applicant along with other persons including the husband of the first informant came to the house where the first informant was staying. They physically lifted the first informant and kept her in their jeep. The persons staying around the house of the first informant assembled there and tried to intervene. At that time, the Applicant stepped in and he used the gun in his hand to terrorise the said persons and he fired one shot in the air.

5. Admittedly, the investigation is completed and the charge sheet has been filed.

6. It is true that the allegation against the Applicant is of very serious nature. However, it cannot be ignored that his brother who is the husband of the complainant has been ordered to be enlarged on bail by the Sessions Court. It is also not in dispute that the Applicant is in active military service. No one is injured due to firing of a bullet. In my view, the applicant deserves to be enlarged on bail subject to stringent conditions as the witnesses will have to be protected.

7. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No. 41 of 2005 registered with Shahuwadi Police Station, District Kolhapur subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) with one or two sureties in the like amount.

ii) The bail is granted subject to the condition that till the conclusion of trial the Applicant will not enter the area falling within the jurisdiction of Shahuwadi Police station, District Kolhapur.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) Parties to act upon an authenticated copy of this order.

JUDGE